

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Ranero Corp. :

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Corporation Franchise Tax :
under Article 9A of the Tax Law
for the Years 1975 & 1976. :

AFFIDAVIT OF MAILING

State of New York
County of Albany

Jean Schultz, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 29th day of February, 1980, she served the within notice of Decision by certified mail upon Ranero Corp., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Ranero Corp.
200 Petersville Rd.
New Rochelle, NY 10801
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
29th day of February, 1980.

Joanne Knapp

Jean Schultz

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
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for Redetermination of a Deficiency or a Revision :
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Corporation Franchise Tax :
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for the Years 1975 & 1976. :

State of New York
County of Albany

Jean Schultz, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 29th day of February, 1980, she served the within notice of Decision by certified mail upon Leon N. Weiss the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Leon N. Weiss
271 N. Ave.
New Rochelle, NY 10801

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the representative of the petitioner herein and that the address set forth on said wrapper is the last known address of the representative of the petitioner.

Sworn to before me this
29th day of February, 1980.

Joanne Knapp

Jean Schultz

STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

February 29, 1980

Ranero Corp.
200 Petersville Rd.
New Rochelle, NY 10801

Gentlemen:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1090 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Leon N. Weiss
271 N. Ave.
New Rochelle, NY 10801
Taxing Bureau's Representative

STATE TAX COMMISSION

A formal hearing was held before William J. Dean, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 1, 1979 at 2:45 P.M. Petitioner appeared by Leon N. Weiss, CPA. The Audit Division appeared by Ralph J. Vecchio, Esq. (Ellen Purcell, Esq., of counsel).

ISSUE

Whether a parent corporation which leases a building extension to related corporations is eligible for an investment tax credit.

FINDINGS OF FACT

1. On August 10, 1978, the Department of Taxation and Finance issued to petitioner notices of deficiency for the period ending December 31, 1975 in the amount of \$1,390.00, plus interest, and for the period ending December 31, 1976, in the amount of \$8,629.00, plus interest.

2. The Statement of Audit Adjustment for each year provides, in part, as follows:

"Tangible personal property and other tangible property, including buildings, and structural components of buildings, which a taxpayer leases to any other person or corporation does not qualify for the investment tax credit."

3. In the early 1970's, petitioner and its related corporations, Die Cast and Forge Corporation ("Die Cast"), Grip Expansion Bolt Corporation ("Grip Expansion") and Rawl Plug Company, Inc. ("Rawl") decided that it was necessary to expand their facilities in New Rochelle. Petitioner considered moving outside New York State. In discussions with officials, two advantages were stressed in urging petitioner to remain in New York State. These were, assistance from the Job Development Authority and the use of the investment tax credit. Petitioner and its related corporations subsequently decided to remain in New Rochelle.

4. The expansion of the New Rochelle facilities began in 1973. For reasons of convenience, such as the use of an existing credit line, and to reduce paperwork, the new facility was financed through petitioner which already had a mortgage on the existing building.

Space in the new facility was leased by petitioner to Die Cast and Grip Expansion, both manufacturing concerns, and to Rawl, the selling arm of the related corporations.

5. For the periods ended December 31, 1975 and December 31, 1976, petitioner took an investment tax credit on its returns in connection with the new facility.

CONCLUSIONS OF LAW

A. That section 210(12)(d) of the Tax Law does not allow to a taxpayer, an investment tax credit with respect to tangible personal property and other tangible property, including buildings and structural components of buildings,

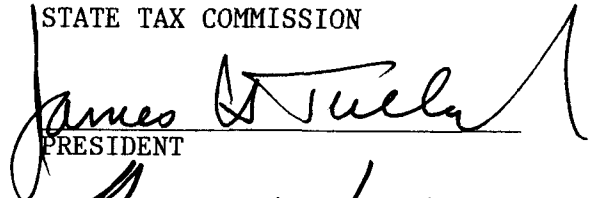
which it leases to any other person or corporation. Accordingly, since space in petitioner's new facility was leased to other corporations, the facility does not qualify for an investment tax credit.

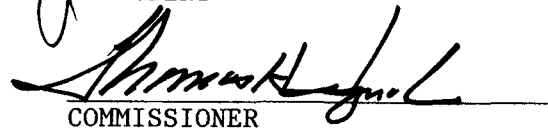
B. That the petition of Ranero Corp. is denied and that the notices of deficiency issued for the tax years ending December 31, 1975 and December 31, 1976 are sustained.

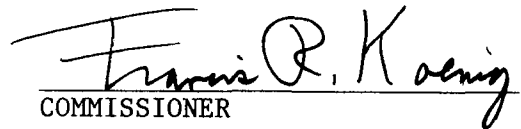
DATED: Albany, New York

FEB 29 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER